

Exhibit 14

United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.,
Civil Action No. 01-12257-PBS

Exhibit to the July 24, 2009, Declaration of George B. Henderson, II
In Support of United States' Common Memorandum of Law in Support of Cross-Motions for
Partial Summary Judgment and in Opposition to the Defendants' Motions for Summary
Judgment

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

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IN RE: PHARMACEUTICAL INDUSTRY) MDL NO. 1456

AVERAGE WHOLESALE PRICE) CIVIL ACTION:

LITIGATION) 01-CV-12257-PBS

-----X

THIS DOCUMENT RELATES TO)

ALL CLASS ACTIONS)

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VIDEOTAPED DEPOSITION OF THE NEW JERSEY DEPARTMENT

OF HUMAN SERVICES by EDWARD J. VACCARO

C O M P U T E R I Z E D T R A N S C R I P T

of the stenographic notes of the proceedings in the
above-entitled matter as taken by and before MARY T.
NOVAK, a Certified Shorthand Reporter and Notary
Public of New Jersey, at the U.S. Attorney's Office,
402 East State Street, Trenton, New Jersey on
Tuesday, December 2, 2008 commencing at fifteen
minutes after nine o'clock in the forenoon.

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A P P E A R A N C E S

Attorneys for United States and United States ex
rel. Ven-a-Care of the Florida Keys v. Abbott
Laboratories, Inc., Dey Labs and Roxane

UNITED STATES DEPARTMENT OF JUSTICE

BY: JAMIE ANN YAVELBERG, ESQ.

Commercial Litigation Branch

Ben Franklin Station, P.O. Box 261

Washington, D.C. 20044

(202) 514-6514

jamie.yavelberg@usdoj.gov

Attorney for the State of New Jersey and
Edward J. Vaccaro

STATE OF NEW JERSEY

BY: ZOE J. McLAUGHLIN, ESQ.,

DEPARTMENT OF LAW & PUBLIC SAFETY

25 Market Street

Trenton, New Jersey 08625

(609) 341-3689

zoe.mclaughlin@law.dol.lps.state.nj.us

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1 DataBank drug reference file?

2 A. Yes.

3 Q. And once New Jersey started using this
4 drug reference file, was this then the primary
5 source that was used?

6 A. The only source.

7 Q. And why is that?

8 A. Claims processing was performed in an
9 electronic world and once you introduce that
10 technology into the process you must have an
11 electronic file of data to reference during
12 claims processing and First DataBank was selected
13 by the state as the sole source of that
14 information.

15 Q. And did the First DataBank drug
16 reference file cover all 50,000 of the drugs that
17 New Jersey Medicaid covered?

18 A. Yes, it did.

19 Q. And included pricing information on all
20 of those drugs?

21 A. Yes, it did.

22 Q. And why is it important to New Jersey

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1 Medicaid to use this automated process?

2 A. When you're processing 15,000,000
3 claims a year it's kind of difficult to do it in
4 any environment other than an electronic
5 environment.

6 Q. And what about, what role does
7 standardization play?

8 A. It's an important role. It allows
9 consistency in a way we provide reimbursement,
10 how we determine coverage for eligibles and that
11 kind of thing.

12 Q. And regarding that drug reference file
13 in 1991, when New Jersey started using this
14 automated drug reference file, the drug reference
15 file contained a number of fields in it, did it
16 not?

17 A. Yes, it did.

18 Q. And was one of those fields AWP?

19 A. Yes.

20 Q. And what does the acronym AWP stand
21 for?

22 A. Average wholesale price.

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1 Q. And in 1991, when New Jersey started
2 using the drug reference file, what was New
3 Jersey's understanding of what that average
4 wholesale price field represented?

5 A. Well, it was populated by First
6 DataBank. The understanding we had, it was a
7 value that was supplied to First DataBank by drug
8 manufacturers.

9 Q. And what was the New Jersey's
10 understanding of what the term, what average
11 wholesale prices represented?

12 A. It represented an average of wholesale
13 prices for particular product.

14 Q. And why, we talked a little bit earlier
15 about estimated acquisition costs.

16 A. Yes.

17 Q. Do you recall? And estimated
18 acquisition cost as defined by New Jersey Code
19 and in the State Plan, remind me, what is it
20 again in New Jersey?

21 A. The estimated acquisition cost as part
22 of the entire formula onto itself is average

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1 Q. And where is that, is that term used in
2 any New Jersey statute?

3 A. AMP in New Jersey, as in other states,
4 would be related to the drug rebate program.

5 Q. And is the drug rebate program a
6 federal or a state program?

7 A. Federal program.

8 Q. And did New Jersey use the AMPs from
9 the drug rebate program for reimbursement
10 purposes?

11 A. No.

12 MR. KIM: Objection to form.

13 Q. And why didn't New Jersey use the AMP
14 for reimbursement purposes?

15 A. We were instructed by CMS that the
16 information was confidential.

17 Q. In the, I think you said that the
18 budget process was annual; is that correct?

19 A. That's correct.

20 Q. And that pharmacy services and
21 reimbursement rates may come up annually or not
22 necessarily?

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1 Q. Are there times when a pharmacy claim
2 needs to be looked at manually for any purpose?

3 A. I should amend my prior answer.
4 Somewhere between 2 to 5 percent, 2 to 3 percent
5 of pharmacy claims may come in in a paper
6 environment and there are limited situations in
7 which that is necessary and for which we accept
8 the paper claim from the provider.

9 An example, and there's only one or two
10 examples like this where we may want to pay a
11 claim that would otherwise deny any electronic
12 environment such as early refill, an early
13 prescription refill. We actually require that
14 the paper claim come in from the pharmacy with a
15 letter of explanation attached from the pharmacy
16 indicating why this particular person needs an
17 early refill on a prescription.

18 Q. And the claims that are processed
19 manually, it's not, for example, one specific
20 drug that's always processed manually?

21 A. Not at all, no.

22 Q. And what are the, are there any

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1 benefits in having the claims process handled in
2 an electronic environment?

3 A. Many benefits.

4 Q. And what are those benefits?

5 A. Well, the primary benefit is the
6 ability to pay claims in a week's time. We
7 actually make a payment to providers in New
8 Jersey every seven days. It's a standardized
9 process in that you assure yourself that by using
10 computer logic to process claims identically
11 every time a claim comes through. And there's
12 sufficiencies in the operation. You're not going
13 to have large staff resources necessary to
14 process pharmacy claims.

15 Q. And the claims processing system
16 managed by Unisys, did that contain the elements
17 of the formula of reimbursement that New Jersey
18 used?

19 A. Absolutely.

20 Q. And remind me again what those elements
21 were.

22 A. We paid a lesser of those three

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